

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	CV 11-5284 ABC (JCx)	Date	July 15, 2011
Title	Nedlog Company v. Adir Restaurants Corporation		

Present: The Honorable Audrey B. Collins, Chief Judge

Angela Bridges

None Present

N/A

Deputy Clerk

Court Reporter / Recorder

Tape No.

Attorneys Present for Plaintiff:

Attorneys Present for Defendant:

None Present

None Present

Proceedings: ORDER RE: DEFENDANT'S EX PARTE APPLICATION (In Chambers)

Pending before the Court is Defendant Adir Restaurants Corp.'s ("Adir") Ex Parte Application to State Enforcement of Judgment Pursuant to Federal Rule of Civil Procedure 62(b)(4) ("Application"). Plaintiff Nedlog Company ("Nedlog") filed an opposition. The Court finds the Application appropriate for resolution without oral argument. For the following reasons, the Court **DENIES** the Application

DISCUSSION

This matter arises out of a judgment that Nedlog obtained against Adir in the federal district court for the Northern District of Illinois, Judge Milton Shadur presiding. The judgment is a confirmation of an arbitration award for \$148,977.44. After receiving permission from Judge Shadur to do so, Nedlog registered that judgment in this district, and is, or will be, attempting to enforce it.

Adir now moves the Court, under Rule 62(b)(4), to stay enforcement of the judgment, without a bond, pending its forthcoming Rule 60 motion for relief from the Illinois judgment. Adir asserts that enforcement of the judgment should be stayed without bond for a combination of reasons, all of which depend on its assertion that its Rule 60 motion is likely to succeed. However, having reviewed the record of the proceedings in Illinois, it is unlikely that Adir will prevail on its Rule 60 motion.

Notably, the two grounds that Adir plans to present in its Rule 60 motion were already rejected by Judge Shadur. Specifically, in Illinois, Adir filed an objection to Nedlog's motion for permission to register its judgment in another district. Therein, Adir contended that a foreign registration should not be permitted on the ground that the judgment was defective because (1) Nedlog did not properly serve Adir with its petition to confirm the arbitration award, and (2) entry of the judgment confirming the arbitration award was premature. But the transcript of the July 6, 2011 hearing on Nedlog's motion (Zabarauskas Decl. Exh. F) reveals that Judge Shadur considered and rejected both of those arguments, explaining his reasoning at length. Judge Shadur expressly stated that Nedlog could register its judgment and seek to enforce it, and at the same time, Adir could seek to vacate the judgment by filing a motion to vacate before him, a motion that he indicated had little chance of success. This Court agrees with Judge Shadur's reasoning, both on the merits and as to the procedural steps available to Adir.

The Court further rejects Adir's argument that it should be granted a stay without having to post

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a bond. Adir asserts that it presently has \$165,000 in liquid assets, which is enough to cover Nedlog's \$148,977.44 judgment. But that Adir presently has these liquid assets gives Nedlog no assurance that Adir will still have them to pay the judgment in the future, especially since the amount Adir now has barely covers the judgment.

In short, Adir has presented no sound reason to stay enforcement of the judgment pending Adir's anticipated Rune 60 motion. As a threshold matter, such a motion has little chance of succeeding, as the merits of such a motion were already rejected by Judge Shadur, whose reasoning is adopted by this Court.

For the foregoing reasons, the Court **DENIES** Adir's Ex Parte Application.

IT IS SO ORDERED.

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